

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
BRUNSWICK DIVISION

FILED  
U.S. DIST. COURT  
BRUNSWICK DIV.

2005 JUL 19 P 3:31

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S.D. DIST. OF GA.

DELANO A. MIDDLETON, )  
Petitioner, ) CIVIL ACTION NO. CV205-064  
v. )  
UNITED STATES OF AMERICA, ) (Case No.: CR298-20)  
Respondent. )

O R D E R

After an independent review of the record, the Court concurs with the Magistrate Judge's Report and Recommendation, to which Objections have been filed. Middleton also sent a letter to the Clerk of Court in which he expressed concern that the Magistrate Judge may have relied on the facts of another case to reach his conclusion in this case. Upon review of the pleadings filed in this case, it appears that the Magistrate Judge's use of the name "Brown" on two occasions was inadvertent and amounts to nothing more than a scrivener's error. The Magistrate Judge reviewed Middleton's allegations and Respondent's Motion to Dismiss and properly concluded that Middleton's motion to vacate his sentence was untimely filed. The Magistrate Judge also properly concluded that Middleton was not sentenced beyond the prescribed statutory maximum sentence he faced.

Middleton's Objections are without merit. The Report and Recommendation of the Magistrate Judge is adopted as the opinion of the Court. Middleton's motion to vacate, set

aside, or correct his sentence, filed pursuant to 28 U.S.C.A. § 2255, is **DISMISSED**. The Clerk is hereby authorized and directed to enter the appropriate Judgment of Dismissal.

SO ORDERED, this 19<sup>th</sup> day of July, 2005.

  
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JUDGE, UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA